

(COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also adjusted the starting price, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other market, where applicable.

Specifically, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for interest revenue. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as reported by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period July 1, 2003, through June 30, 2004.

Manufacturer/exporter	Weighted-average margin percentage
CCM	0.00

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within 5 days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. All case briefs must be submitted within 30 days of the date of publication of this notice. Rebuttal briefs, which are limited to issues raised in the case briefs, may be filed not later than five days after the case briefs are filed. A hearing, if requested, will be held two days after

the date the rebuttal briefs are filed or the first business day thereafter.

The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of the issues raised in any written comments or at the hearing, within 120 days from the publication of these preliminary results.

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to CBP. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the review and for future deposits of estimated duties. For duty assessment purposes, we will calculate a per-unit customer or importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each customer/importer and dividing this amount by the total quantity of those sales. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

The following deposit requirements will be effective for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash-deposit rates for the reviewed company will be the rate established in the final results of review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 91.06 percent, the "All Others" rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries

during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-814]

Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to requests from Ugine and ALZ France S.A. (U&A France) (the Respondent), and Allegheny Ludlum Corporation, AK Steel, Inc., North American Stainless, United Steelworkers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization (collectively, the Petitioners), the U.S. Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (SSSS) from France for the period July 1, 2003, through June 30, 2004 (POR). The Department preliminarily finds that U&A France's sales of SSSS in the United States were made at less than normal value (NV). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of U&A France's merchandise during the period of review. The preliminary results are listed in the section titled "Preliminary Results of Review," below.

EFFECTIVE DATE: August 8, 2005.

FOR FURTHER INFORMATION CONTACT: Sean Carey, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution

Avenue, NW., Washington, DC 20230; (202) 482-3964.

Background

On July 27, 1999, the Department published the amended final determination and antidumping duty order on SSSS from France. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from France*, 64 FR 40562 (July 27, 1999). On July 1, 2004, the Department published a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on SSSS from France for the period July 1, 2003, through June 30, 2004. See *Notice of Opportunity to Request Administrative Review of Antidumping Duty or Countervailing Duty Order, Finding, or Suspended Investigation*, 69 FR 39903 (July 1, 2004). On July 30, 2004, the Petitioners and U&A France, a producer and exporter of subject merchandise, requested that the Department conduct a review of U&A France's sales or entries of merchandise subject to the Department's antidumping duty order on SSSS from France. On August 30, 2004, in accordance with section 751(a) of the Act, the Department published a notice of initiation of this antidumping duty administrative review for the period July 1, 2003, through June 30, 2004. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On September 16, 2004, the Department issued a questionnaire to U&A France. On November 19, 2004, U&A France filed its response to Section A through E. On December 1, 2004, U&A France submitted a revised version of the computer file format table, which was submitted in the November 19, 2004 response.

On January 25, 2005, the Petitioners submitted comments on U&A France's response to Section A of the Department's questionnaire. On January 27, 2005, the Petitioners submitted comments on U&A France's response to section D and E of the Department's questionnaire. On February 4, 2005, the Petitioners submitted their comments on U&A France's response to section B and C of the Department's questionnaire.

On February 15, 2005, the Department issued a supplemental questionnaire for section A to U&A France. On February 25, 2005, the Department issued supplemental questionnaires for section B and C to U&A France.

On March 7, 2004, the Department extended the time limit for the

preliminary results of the antidumping duty administrative review. See *Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 70 FR 10985 (March 7, 2005).

On March 22, 2005, U&A France filed its response to the section A supplemental questionnaire. On April 1, 2005, U&A France filed its response to section B and C supplemental questionnaire. On May 3, 2005, the Department issued a section D and E supplemental questionnaire to U&A France. On May 27, 2005, U&A France filed its response to the section D and E supplemental questionnaire. On June 15, 2005, the Department issued a second supplemental section D questionnaire to U&A France. On June 24, 2005, U&A France filed its response to the second supplemental section D questionnaire.

On June 27, 2005 the Petitioners filed comments on the section A-C supplemental questionnaire responses for U&A France. On July 8, 2005, the Department issued a third supplemental section D questionnaire to U&A France. On the same date, U&A France filed its sales reconciliation with the Department. On July 15, 2005, U&A France filed its response to the third supplemental section D questionnaire.

On July 28, 2005, U&A France responded to Petitioners' comments dated June 27, 2005. On July 29, 2005, the Department issued a second supplemental questionnaire regarding sections A, B, and C to clarify a number of issues raised by the Petitioners. U&A France's response is due after the issuance of the preliminary results of this review. In accordance with 19 CFR 351.301(c), parties will have 10 days to comment on the new information. Any decision reached by the Department concerning these issues will be reflected in the final results of this review.

Scope of the Order

The products covered by this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific

dimensions of sheet and strip following such processing.

The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81¹, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.7060, and 7220.90.0080.

Although the HTSUS subheadings are provided for convenience and customs' purposes, the Department's written description of the merchandise under the order is dispositive.

Excluded from the order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless sheet products of a thickness of 4.75 mm or more); (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

Flapper valve steel is also excluded from the scope of the order. This

¹ Due to changes to HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel strip contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with exclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and

12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."²

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."³

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."⁴

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).⁵ This steel is similar to

AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils in similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."⁶

Affiliation

U&A France and Imphy Ugine Precision (IUP) are wholly owned subsidiaries of Usinor S.A. (Usinor). See Section A Response of Ugine & ALZ France S.A., dated November 19, 2004, at 18 (Section A Response). Usinor, Arbed, S.A. (Arbed), and Aceralia Corporacion Siderurgica, S.A. (Aceralia) comprise the Arcelor Group. *Id.* at 1, n.2. In the U.S. market, U&A France made sales through one affiliated U.S. company: Arcelor Stainless USA, Inc. (AUSA). IUP made sales in the United States through two affiliated U.S. companies: Rahns Specialty Metals, Inc. (Rahns), which ceased operations in December 2003, and thereafter Hood & Co., Inc. (Hood). AUSA also sold to an affiliate, Arcelor Stainless Processing, LLC (ASP) and to unaffiliated customers. ASP resold subject merchandise to unaffiliated customers both with and without further processing. AUSA is wholly owned by Arcelor USA Holding, Inc., which is owned by Arcelor Project, Usinor, Matthey Et Cie S.A. Sidarfin and Arcelor International. See Section A Response, at 16. These companies are

² "Arnokrome III" is a trademark of the Arnold Engineering Company.

³ "Gilphy 36" is a trademark of Imphy, S.A.

⁴ "Durphynox 17" is a trademark of Imphy, S.A.

⁵ This list of uses is illustrative and provided for descriptive purposes only.

⁶ "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

owned by Arcelor, Usinor, and Aceralia. *Id.*

We note that there are no significant changes to the ownership structure of these companies since the last review. As a result, the Department preliminarily finds, as we have in all previous reviews, that U&A France, IUP and its U.S. resellers are affiliated. See *Stainless Steel Sheet and Strip in Coils from France: Preliminary Results of Antidumping Administrative Review*, 69 FR 47892 (August 6, 2004) (*Preliminary Results Fourth Review*).

Collapsing of Affiliated Parties

In accordance with 19 CFR 351.401, the Department preliminarily finds that it is appropriate to treat U&A France and IUP as a single entity for purposes of calculating a dumping margin. See *Memorandum to Maria MacKay, Acting Office Director, through Sean Carey, Program Manager, from Sebastian Wright, Analyst, Stainless Steel Sheet and Strip in Coils From France; Collapsing of Ugine & Alz, Franc, S.A. and Imphy Ugine Precision*, (August 1, 2005), on file in the Central Records Unit (CRU), Room B-099 of the main Commerce Building.

Normal Value Comparison

To determine whether U&A France's sales of subject merchandise to the United States were made at less than fair value, we compared the constructed export price (CEP) to the normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual CEP transactions.

A. Home Market Viability

In accordance with section 773(a)(1) of the Act, to determine whether there were sufficient sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared U&A France's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because U&A France's aggregate volume of home market sales of the foreign like product during the POR was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

B. Arm's-Length Test

U&A France reported that it made sales in the home market to affiliated end users and resellers during the POR. In accordance with 19 CFR 351.403(c), the Secretary may calculate NV based on sales to an affiliated party only if satisfied that the price is comparable to the price at which the exporter or producer sold the foreign like product to a person who is not affiliated with the seller.

To test whether U&A France's sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where identical merchandise was not sold to unaffiliated customers, we based the comparisons on sales of the most similar merchandise. Where prices to the affiliated party were on average between 98 and 102 percent of the price to the unrelated party, we determined that sales made to the related party were at arm's length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We have included in our NV calculations U&A France's sales to affiliated customers that passed the Department's arm's-length test. Conversely, certain sales to affiliated customers that did not pass the arm's-length test have been excluded from our NV calculation.

U&A France's sales to PUM, a reseller, did not pass the arm's-length test. In accordance with 19 CFR 351.403(d), the Secretary normally will not calculate NV based on the downstream sales by an affiliated parties if the total sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the reporter's or producer's sales of the foreign like product in the market in question. In the instant case, U&A France's sales to affiliates in the home market account for more than five percent of the total value of U&A Frances's home market sales. Therefore, the department cannot disregard the downstream sales of the affiliated party in the calculation of NV. U&A France, however, did not provide PUM's downstream sales information.

Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form of manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D)

provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. In its response to the Department's questionnaire, U&A France claimed, as it has in prior reviews, that sales by PUM were insignificant and would not be used as matches for U.S. sales because the product sold by PUM would not match to a sale of merchandise in the United States. See Section A Supplemental Questionnaire Response at 24 (March 22, 2005) (Supplemental Section A Response). U&A France also again claimed that it would be difficult to collect all of the information requested by the Department. *Id.* In a subsequent questionnaire we asked U&A France why is contended that it should not have to report the downstream sales for PUM. *Id.* U&A France reiterated that it would endure an undue burden in providing the downstream sales for PUM and asked the Department to rely on the sales by U&A France to PUM *Id.* U&A France did not provide any of the requested downstream sales information in the database provided with the submission, nor did it include that information in any subsequently reported datasets.

Consistent with sections 776(a)(2)(A) and (B) of the act, because U&A France withheld information requested by the department, we are applying facts otherwise available. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting the best of its ability to comply with a requested information," the Department may use information that is adverse to the interests of that party as facts otherwise available. In this case, even after receiving the Department's supplemental request, U&A France has refused to provide downstream information for PUM, claiming that to do so would be overly burdensome given the insignificant volume of this reseller's sales compare to the total volume of home market sales and that the product sold by this reseller would not be matched to products sold in the United States. In the prior administrative review, U&A France also refused to provide this information, and the Department applied adverse facts available to these downstream sales. See *Preliminary Results Forth Review at 47896-47897*.

Because U&A France explicitly refused to provide the requested downstream sales by PUM, the department preliminarily finds that, in accordance with section 776(b) of the

Act, the application of partial adverse facts available is appropriate. As adverse facts available or U&A France's sales to PUM, we will use the higher of the price charged to PUM by U&A France (the "upstream" price) or the price charged for the most similar product purchased in the home market by an unaffiliated customer. In selecting this information as adverse facts available, we took into account the small volume of sales involved.

C. Date of Sale

As stated at 19 CFR 351.401(i), the Department normally will use the invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. U&A France reported the invoice date as the date of sale for both home market and U.S. sales. In the prior segment of this proceeding, we found that invoice date is the correct date of sale for U.S. and home-market sales. See *Preliminary Results Fourth Review* at 47897. Nothing has changed in U&A France's sales process or channels of distribution since the prior review that would cause the Department to revisit its prior decision. Accordingly, the Department preliminarily finds that invoice date is the proper date of sale for both home market and U.S. sales.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all SSSS products covered by the "Scope of the Order" section of this notice and sold in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of SSSS products. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of preference): (1) Grande; (2) hot/cold rolled; (3) gauge; (4) surface finish; (5) metallic coating; (6) non-metallic coating; (7) width; (8) temper; and (9) edge trim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

Normal Value

After testing home market viability and whether home market sales were at prices below the cost of production, we calculated NV as noted in the "Price-to-Constructed Value (CV) Comparison"

and "Price-to-Price Comparisons" sections of this notice.

Cost of Production Analysis

Because we disregarded sales below the cost of production in the most recently completed segment of this proceeding, we have reasonable grounds to believe or suspect that sales by U&A France in its home market were made at prices below the cost of production (COP), pursuant to section 773(b)(1) of the Act. See *Stainless Steel Sheet and Strip in Coils from France: Final Results Fourth Review*, 70 FR 7240 (February 11, 2005). Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by U&A France as described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of U&A France's cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative expenses (SG&A), including interest expenses, and packing costs. We relied on the COP data submitted by U&A France in its May 27, 2005, cost questionnaire response. U&A France submitted two sets of cost data, one based on monthly costs and the other based on the weighted-average cost for the POR.

U&A France argues that because raw material prices increased significantly during the POR, the Department should depart from its normal practice of calculating an average COP for each CONNUM and instead use average monthly COP. See Section D response dated November 19, 2004, at page 42. Pursuant to 19 CFR 351.414(d)(3), for purposes of these preliminary results, we have relied on the weighted-average cost for the POR instead of the monthly costs reported by U&A France because fluctuating raw material prices were not significant enough for us to depart from our standard practice of using one weighted average COP for the POR. See *Memorandum to the File: Analysis of Monthly Costs Submitted by Ugine & Alz France, S.A. from Christopher J. Zimpo*, (August 1, 2005).

B. COP test of Home Market Prices

We compared the weighted-average COP for U&A France to home market sales of the foreign like product to determine whether these sales had been made at prices below the COP as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended

period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices, less any applicable billing adjustments, movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2) of the Act, where less than 20 percent of U&A France's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of U&A France's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of U&A France's cost of materials, fabrication, SG&A (including interest expenses), U.S. packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by U&A France in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, export price (EP) is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price (CEP) is

the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

For purposes of this review, U&A France classified all of its reported U.S. sales of SSSS as CEP sales. During the review period U&A France made sales to the United States through its U.S. based affiliates, AUSA, Rahns, Hood, and ASP, which resold the merchandise to unaffiliated customers. Therefore, because U&A France's U.S. sales were made by AUSA, Rahns, Hood and ASP after the subject merchandise was imported into the United States, it is appropriate to classify these sales as CEP sales.

We calculated the CEP in accordance with section 772(b) of the Act. We based CEP on the packed ex-warehouse or delivered prices to unaffiliated purchasers in the United States. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight from plant to distribution warehouse, international freight, marine insurance, U.S. inland freight from port to warehouse, U.S. inland freight from warehouse/plant to the unaffiliated customer, U.S. warehouse expenses, other U.S. transportation expense, wharfage expenses, and customs duties. In accordance with section 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses, inventory carrying costs, credit, warranty expenses, commissions, and other indirect selling expenses.

For products that were further manufactured by ASP after importation, readjusted the starting price for all costs of further manufacturing in the United States, in accordance with section 772(d)(2) of the Act. In calculating the cost of further manufacturing for ASP, we relied upon the further manufacturing information provided by U&A France.

We deducted the profit allocated to expenses listed under sections 772(d)(1) and (d)(2), in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic

activity (including further manufacturing costs), based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market in accordance with section 772(f). We also adjusted the starting price for billing adjustments, discounts, rebates, other revenues and freight revenue.

Price-to-Constructed Value Comparisons

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find a home market match of identical or similar merchandise that is not disregarded due to the cost test. For these preliminary results, we did not use CV for NV because we were able to find a home market match of identical or similar merchandise that was not disregarded due to the cost test under 19 CFR 351.405(a) for each product sold in the United States.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to unaffiliated home market customers or prices to affiliated customers that were determined to be at arm's length. Where appropriate, we deducted discounts, rebates, credit expenses, warranty expenses, inland freight, inland insurance, and warehousing expense. We also adjusted the starting price for billing adjustments, freight revenue, other revenues, and direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in CEP comparisons. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with sections 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs.

For reasons discussed in the "Level of Trade" section below, we allowed a CEP offset for comparisons made at different levels of trade. To calculate the CEP offset, we deducted the home market indirect selling expenses (less any offset of U.S. commissions) from NV for home market sales that were compared to U.S. CEP sales. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating the CEP as required under section 772(d)(1)(D) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV using

sales in the comparison market at the same level of trade (LOT) at the U.S. sales. See 19 CFR 351.412. The NV LOT is the level of the starting-price sale in the comparison market. For CEP sales it is the level of the constructed sales from the exporter to the importer. See 19 CFR 351.412. U&A France classified all of its U.S. sales as CEP and the Department's analysis found no indication that the sales were not CEP sales.

To determine whether NV sales are at a different LOT than CEP sales, we examine selling functions between the producer and the unaffiliated or affiliated customer (if the arm's-length test is passed) for home market sales, and between the producer and the affiliated customer for CEP sales. However, if the selected comparison market sales are at a different LOT than the CEP sales, and a consistent pattern of price differences is manifested between the sales on which NV is based and other home market sales at the same LOT as the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining a consistent pattern of price differences, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001). We expect that, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. See *Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000).

In the home market, U&A France sells directly to the customer and through an affiliated service center, U&A FS. IUP sells directly to customers. U&A France reported three channels of distribution, two customer categories, and one level of trade. We found that, in the home market, U&A France performs a variety of distinct selling functions including: Strategy planning and marketing, customer sales contact, production planning and order evaluation, advertising, warranty, technical service, administrative, and freight and delivery

in both customer categories. See Section A Response of Uguine & ALZ France, Vol. 1, Appendix A-8 (November 19, 2004) (Appendix A-8). We examined the selling functions performed for the two customer categories and found there were no significant differences in selling functions performed. Therefore, we preliminarily find that the three home market channels of distribution to the two customer categories constitute one level of trade.

U&A France reported four channels of distribution, three customer categories, and one level of trade in the U.S. market. U&A France's channels of distribution and customer categories within each channel are as follows: (1) AUSA sold subject merchandise to unaffiliated end users and unaffiliated service centers/processors; (2) AUSA sold subject merchandise to ASP with ASP sold to unaffiliated end users. (3) AUSA sold subject merchandise imported from U&A France via Arcelor Canada to ASP which sold the subject merchandise to unaffiliated end users; and (4) IUP sold merchandise to Rahns and Hood which sold to unaffiliated end users. See Appendix A-8. As explained in U&A France's Section A Response, U&A France performed very few selling activities for the U.S. Sales because most selling functions were performed by the U.S. sales affiliates (AUSA, Rahns, Hood, and ASP). We examined the selling functions performed and found that there were only minor differences with respect to the degree to which the U.S. affiliates performed those selling function in all channels. We preliminarily find that U&A France's U.S. sales channels constitute one LOT. See *Memorandum to the File through Sean Carey, Program Manager, from Sebastian Wright, Analyst, Concerning Stainless Steel Sheet and Strip in Coils from France: Analysis Memorandum*, (August 1, 2005) (*Analysis Memorandum*).

U&A France and its home market affiliates perform all home market selling activities. Selling functions for the U.S. market, as indicated above, are performed by ASUSA, Rahns and Hood. We compared the U.S. and home market LOTs and determined that, after eliminating from consideration selling functions performed by ASUSA (pursuant to section 772(d) of the Act), U&A France's home market sales are made at a different and more remote, LOT than its CEP sales. See *Analysis Memorandum*.

We examined whether a LOT adjustment of CEP offset may be appropriate. In this case, U&A France sold at one LOT in the home market. Therefore, there is no information

available to determine a pattern of consistent price differences between the sales on which NV is based and the home market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. See 19 CFR 351.412(d). We do not have record information which would allow us to examine pricing patterns based on U&A France's sales of other products, and there are no other respondents or other record information on which such as analysis could be based. Accordingly, because the data available do not provide an appropriate basis for making an LOT adjustment, but the LOT in the home market is at a more advanced state of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This offset is equal to the amount of indirect selling expenses incurred in the home market not exceeding the amount of indirect selling expenses and commissions deducted from the U.S. price in accordance with section 772(d)(1)(D) of the Act. We note that in all prior administrative reviews of this order, where similar situations existed, we also granted a CEP offset. See, e.g., *Preliminary Results Fourth Review* at 47899; See also *Stainless Steel Plate in Coils From Belgium: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 32573, 32576 (June 3, 2005).

Current Conversion

For purposes of the preliminary results, in accordance with section 773A of the Act, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Assessment Calculation

U&A France contends that the Department should include in the denominator of the Department's assessment calculation the value of subject merchandise entered for consumption into the United States, but first sold to customers outside of the United States during the POR. Specifically, U&A France proposes that in calculating the assessment rate, the Department should divide the total dumping duties calculated on U.S. sales by the sum of the entered value of the sales reported in the U.S. sales database plus the entered value of the sales entered for consumption but first sold to customers outside of the United States. According to U&A France, "[i]n cases where a respondent imports a product for consumption which is physically

within the scope of the order at the time of entry and subsequently makes the first sales of this product to a customer outside the United States, it is the Department's practice to add the entered value associated with these sales to the denominator in the calculation of the assessment rate in order to avoid collecting antidumping duties on these non-subject sales." See Section A Supplemental, at page 3. U&A France contends that its position is supported by prior Department and court decisions.⁷

The Petitioners counter that the Department's regulations direct the Department to calculate the assessment rate for each importer by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. See 19 CFR 351.212(b)(1). The Petitioners assert that the Department recognized that it would deviate from the methodology using the entered value of the U.S. sales made during the POR in only unusual situation.⁸ They further contend that U&A France has not provided sufficient reason for the Department to deviate from the methodology mandated by 19 CFR 351.212(b)(1). The Petitioners assert that U&A France has not provided any evidence that using the entered value of the U.S. sales during the POR will result in a significant distortion of the assessment rate. Moreover, the Petitioners contend that the record is not clear as to who was the importer of record for the sales entered for consumption into the customs territory of the United States, but first sold outside the United States. According to the Petitioners, there is no basis for the Department to determine which importer's assessment calculation should have these sales included in the denominator.

Based on the information available to the Department at this time, we have preliminarily included the value of these non-U.S., suspended sales in the denominator of the assessment

⁷ See *Stainless Steel Sheet & Strip in Coils from Mexico: Final Results of Antidumping Administrative Review*, 67 FR 6490 (February 12, 2002) at Comment 15 (*Mexinox 2002*); *Stainless Steel Sheet & Strip in Coils from Mexico: Final Results of Antidumping Administrative Review*, 68 FR 6889 (February 11, 2003) and the accompanying Issues and Decision Memorandum at Comment 15 (*Mexinox 2003*); *Stainless Steel Sheet & Strip in Coils from Mexico: Final Results of Antidumping Administrative Review*, 69 FR 6259 (February 10, 2004) and accompanying Issues and Decision Memorandum at Comment 19 (*Mexinox 2004*); see also *Torrington Co. v. United States*, 82 F.3d 1039, 1047 (Fed. Cir. 1996).

⁸ See *Antidumping Duties, Countervailing Duties, Proposed Rule: Uruguay Round Agreement Act (URAA): Conformance*, 61 FR 7308, 7316-7317 (February 27, 1996).

calculations. As noted by U&A France, the Department has previously included the value of merchandise entered for consumption into the United States, but first sold outside of the United States, in the denominator of the importer specific assessment calculations. *See Mexinox 2002; Mexinox 2003; and Mexinox 2004.* In *Mexinox 2002*, we determined that it is appropriate to include the entered value of merchandise entered for consumption into the United States, but subsequently first sold outside of the United States into the denominator of the Department's importer specific assessment calculation to "facilitate the U.S. Customs Service's collection of antidumping duties on subject merchandise." *See Mexinox 2002 and accompanying Issues and Decision Memorandum*, at comment 15.

Finally, we disagree with the Petitioners' assertion that we are unable to determine who is the importer of record from the record of this case. U&A France specifically states that U&A France is the importer of record for the sales entered for consumption, but subsequently first sold outside of the United States, at Appendix SA-2 of the supplemental questionnaire response dated March 22, 2005. Accordingly, the Department has preliminarily included the entered value of the merchandise which was imported for consumption into the United States, but subsequently first sold outside of the United States in the denominator of the importer specific assessment calculation. A more detailed discussion of this issue and the computer code which implements this decision is included in the Department's analysis memorandum. *See Analysis Memorandum*.

Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted-average dumping margin exists:

STAINLESS STEEL SHEET AND STRIP IN COILS FROM FRANCE

Producer/manufacturer/exporter	Weighted-average margin
U&A France	11.11 percent.

Duty Assessment

Upon issuance of the final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to CBP within fifteen days of publication of the final results of review. The final results of this review shall be the basis for the

assessment of antidumping duties on entries of merchandise covered by these results and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales to the importer by the sum of total entered value of these sales plus the entered value of subject merchandise entered for consumption but first sold outside of the United States. If the preliminary results are adopted in the final results of review, this rate will be used for assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

Revocation of the Order

On July 12, 2005, the United States International Trade Commission (ITC) informed the Department that the revocation of the antidumping duty orders on stainless steel sheet and strip from France would not likely lead to continuation of recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Accordingly, the Department will be revoking this antidumping duty order effective, July 27, 2004. Therefore, cash deposits of estimated antidumping duties are no longer required.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculation performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties

will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under regulation 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-822]

Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox S.A.) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox) and petitioners,¹ the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4 in coils) from Mexico. This administrative review covers imports of subject

¹ Petitioners are Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc. and the United Steelworkers of America, AFL-CIO/CLC.